

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, WILL HOLD A REGULAR COUNCIL MEETING IN THE THIRD
FLOOR ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON
THURSDAY, September 6, 2007 AT 7:30 P.M.**

The meeting of the **New Albany City Council** was called to order by President Larry Kochert at 7:30 p.m. The meeting opened with the Lords Prayer and the Pledge of Allegiance.

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Schmidt, Mr. Price, Mrs. Crump, Mr. Gahan, Mr. Blevins, Mr. Messer, Mr. Zurschmiede and President Larry Kochert.

OTHERS: Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

ALSO: Mayor James Garner and Board of Works member Matt Denison

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mrs. Crump moved to approve the August 23rd meeting minutes as amended, Mr. Price second, all voted in favor except Mr. Blevins who abstained.

Mr. Coffey moved to approve the August 21st executive session meeting minutes, Mr. Schmidt second, all voted in favor except Mr. Blevins who abstained.

APPROVAL OF CF-1 FORMS:

COMMUNICATIONS – PUBLIC:

Valla Ann Bolovschak stated that R-07-31 will increase the property taxes and she is amazed that on the heels of the increase of the property taxes that they would even consider this resolution. She stated that the DROP program should be covered by alternative funds such as Rainy Day and Riverboat funds. She went over items in the July claims that she felt were miscellaneous and unnecessary.

Keith Carlson, General Council for the Fire Union, discussed the ordinance for the Merit Commission and he went over amendments that they would like in the ordinance which he stated are not substantial they simply clarify the ordinance by spelling out the state statute. He explained that a Merit system is the fairest system. He stated that this past year he has set up 20 merit systems throughout Indiana and he believes this is the way to go. He stated that it benefits the City in many ways and that it depoliticizes the system that is inherently political to bring about change to be able to make a better system to be able to have a safer community and streamline the hiring and promotion process.

Tasha Wright spoke on behalf of the citizens of Tabor Ct. She presented a petition from her neighbors asking that this problem be corrected. She informed the board that the water has been tested positive for e-coli and she is worried about the West Nile Virus. She stated that she feels that everyone is passing the blame and nothing is getting done. She has been told that the money is there to fix the issues in this area and still nothing has been done. The health issues are the main concern of the neighborhood and they would like the Council to address the issue and find the funding to correct the problems with the drains that are the main cause of the problem. She stated if the City would come out and dig out the drain so that the water can run freely then any other problems with the pond would be the responsibility of the gentleman that owns the property.

Mr. Kochert stated that he and Mr. Price went out to inspect this area and they saw the pond and the drainage area and stated that the apartment building in that area is an atrocity. He explained that they have built out on the easement and that the citizens just dump their garbage anywhere they want. He stated that the owner of the pond has some issues that he needs to address and this is the first year that he has heard anything about this issue and he went out to inspect the area as soon as he heard the first complaint.

Mr. Coffey explained that the he has never known any of the council members to make decisions about an area based on the income of the citizens of that area. He stated that he agrees with Ms. Wright about the money spent on sidewalks but that is an issue that has to go to Redevelopment because that is federal money. He explained that when the money was pulled from the drainage projects it was because the money was spent on other projects without the approval of the Council and so they pulled the funding to get projects back in order. He explained that the Council is very sympathetic but somewhere along the line they have to hold the contractors accountable for what they are doing and unfortunately they paid the consequences of that but the money was being put back up at tonight's meeting and he hopes someone from EMC will be there to tell them all where the money is going to be spent specifically.

Mr. Schmidt stated that he received calls from residents in Grantline Center and Tabor Court area about a green scrub pond. He stated that they are concerned about the dangers of the mosquitoes and West Nile Virus. He explained that he was told that the Floyd County Health Department visited this area and said there was nothing they could do and he wanted to know why the FCHD didn't bring this health hazard to the Council in order to clean it up. He stated that he talked to Mrs. Garry and she said it was necessary to get 3 bids and he is asking the Council to approve funding to take care of this health hazard.

Ms Wright stated that she was the individual that Mr. Schmidt spoke with and to answer his question about why they were not made aware of the problem, it is because everyone keeps passing the blame and no one wants to take responsibility for testing the water.

Mr. Schmidt stated that he spoke with Mr. Taylor and he stated that he has a bid on the project and like he previously stated he was told that if they get three bids they could get this issue resolved.

Mr. Price stated he believed the Planning Commission needs to start being held accountable for keeping a close eye on all these developments that are going in and pay special attention to the drainage in these areas.

Ms. Wright explained that her boyfriend has spent a lot of time walking the ditch and he is very familiar with the problem areas and could better explain to the council the situation but that they aren't going to be able to bring in heavy equipment because the bank will cave it. She stated that it is going to take a smaller piece of equipment and then some type of foliage to hold the bank up where the water runs.

Mr. Messer stated that if the pond is part of the problem then they are going to have to put some pressure on the owner to address his part of the issue.

Mr. Kochert stated that the DePauw neighborhood area two years ago had the same sort of issue with a possible West Nile situation and that was never addressed by the City. He stated that that issue was brought before the Council and the area was fogged but the problem persists.

COMMUNICATIONS – CITY OFFICIALS:

John Rosenbarger stated that in the last conversation they heard that the Plan Commission was responsible to review drainage issues and that is not true. Drainage issues are the City Engineers responsibility along with the Board of Public works and safety.

Mr. Price stated that he wasn't accusing anyone when he made his statement but his point was that someone has to take a look at all the construction that is going on and all the drainage problems that are a result of this.

Mr. Rosenbarger stated that there have always been maintenance problems as far as drainage go but he just wanted to clarify that it has never been the responsibility of the Plan Commission.

Mr. Kochert asked who would have been responsible for it from 1985-1989

Mr. Rosenbarger stated the City Engineer and the Board of Public Works and Safety. He explained that even after drainage facilities are built they are at the mercy of a lot of different hands so it is hard to place blame on one individual or body of individuals.

Mr. Schmidt asked about Ellen Court and stated that they never had a drainage problem in the Holy Family parking lot but now when it rains the water runs down through the lot and blocks Daisy Lane. He stated that they mentioned that to the Plan Commission when another building went up there and they assured the Council that it had been taken care of but there are still problems.

Mr. Coffey stated that before anything passes they rely on the planning staff to give them recommendations.

Mrs. Crump stated that they are not the engineers and they are relying on information from the engineers to give them a site review on the drainage program that is being committed to.

Mr. Coffey stated that they are continually hiring the same engineers that are giving them all the drainage problems.

Mr. Gahan called the council's attention to Ordinance G-06-39 that requires reports to the council from the sewer board for planned sewer projects and information pertaining to these projects as well as updates on relationship with the EPA.

Valla Ann Bolovschak, Governor Appointee to the Greenway project handed out applications for the 5K marathon.

Mr. Kochert stated that the Depauw area has tested positive for the West Nile and they have a serious mosquito problem and it has not been addressed yet and his only request is that every district get a fair share at the drainage funds.

COMMUNICATIONS – MAYOR:

Mayor Garner stated that they should have received a list of the top six drainage projects and that he had received the bids for the Tabor Court problem and one bid came in \$1100 less today from Excel Excavating. He explained that it is now a little over \$50,000 for the top six projects.

Mr. Coffey stated that the problem he has is that these issues have been going on for years and he is against hiring an outside company because the ones on the inside know the real problems.

Mr. Messer asked if he was saying it was the contractors fault that this was ignored or the individuals on the inside that knew about it.

Mayor Garner stated that until Mr. Kochert brought the issue of Depauw to his attention he hadn't heard anything about it but that for at least six years Tabor Court has been an issue because the Health Department ordered the trailer park to clean it up.

Mr. Kochert stated that the Health Department is the one that caught the mosquitoes on Depauw and tested them. He explained that the issue on Longmeadow Drive, which is number six on the list, was self induced because the citizens covered in their ditch and now they want the City to fix it.

Mayor Garner stated that he didn't think when Mr. Taylor made out this list that he knew all the specifics and the history of the situation.

Mr. Coffey stated that is why he doesn't think they are the right ones for the job.

Mr. Messer stated that EMC has just now started doing the drainage work and it was their people that have been doing the work and from here on out EMC was going to do the work. He explained that Mr. Coffey is saying that some of these problems are 20 years old and so he can't blame that on EMC if they have only been doing the actual labor on the drainage issues for a few months.

Mayor Garner stated that if the \$54,000 is appropriated the first 5 items will be performed and they will review the Long Meadow project because he believes that this may have been caused by the residents and after review they will determine if DePauw needs to be the sixth project.

Mr. Schmidt stated that when he wrote an ordinance to transfer \$20,000 for these projects he was told by Mrs. Garry that all he needed was three bids and then the money could be appropriated but that he didn't have three bids so where did that leave them.

Mayor Garner stated that he asked Mr. Taylor to have the bids turned over to him and that as it stands now they have \$54,000 appropriated and it will go to the lowest bidder which right now is \$14,900. He wanted to go back to Mr. Gahan's reference to the earlier ordinance and stated that they have had no new agreements, consent decrees, documentation or negotiations with the EPA to report to the council.

Mr. Gahan stated that what they are looking for in these reports is what the City's relationship is with the EPA and if they are meeting all the obligations.

Mayor Garner stated that they have not yet met their obligations because they are still under oversight, but they have been doing everything that has been asked of them.

Mr. Gahan stated that once he submits the report then they can ask questions of they need to. He asked if Depauw was going to be on the list and if the list had been longer at some point.

Mayor Garner stated that they will have to look into whether or not Depauw will be added and that the list originally included nine projects but that three of them had been completed. He explained that these are not the only drainage issues but that these are the top six at this point.

Mr. Gahan stated that he just wanted to make sure that the projects lower on the list weren't going to jump in front of Tabor Court.

Mayor Garner stated that Tabor Court would be done first and it will go to the edge of the mobile home park property but that is where the work will stop. He explained that he has been out there several times and seen some of the conditions that the people in the mobile homes are living in and he doesn't understand why they continue to let the landlord get away with it and the Health Department isn't enforcing the regulations on them.

Mr. Schmidt asked about drainage issues out by K-Mart on Grantline Rd.

Mayor Garner stated that they have gone out and established that the drains in that area are functioning properly and don't appear to be going down into the trailer park.

Mr. Blevins asked if the council will receive a report from the Sewer Board on the projects with detailed plans.

Mr. Kochert stated that they just recently sent out a list of capital improvement projects several times.

Mayor Garner stated that the Robert E. Lee lift station is the next project to be started but the actual bids came in above what was projected and it will start in the next 30-45 days. He stated that the REL force main had bids taken on this project and that the engineer is working on a new schedule that shows when all the projects will start and are estimated to be completed and he will provide that to the council. He stated that there are no other projects in the works other than repairs and maintenance that is not on the list.

Mr. Gahan stated that he would just like to be made aware of where the money is being spent even if it is smaller projects.

Mr. Zurschmiede stated that they receive a financial report every month detailing where every penny is spent including the maintenance.

Mayor Garner stated that all the moneys are in the report but some of it might not be itemized and he would make sure that Mr. Gahan received a different report.

Mayor Garner reported that yesterday a little girl was bit by a dog that is now in the custody of the Animal Shelter that will be euthanized after quarantine. The dog had been cited previously cited for biting someone by the Health Department but the Animal Shelter did not know about this incident. He stated that the Animal Control Board has been working for the last year to re-write the ordinance and that he has a copy and he will get it to Ms. Wisman to be put into their packets.

COMMITTEE REPORTS:

Jerry Ulrich & Larry Kochert – report on Redistricting lawsuit

Mr. Ulrich stated that they had a settlement conference a couple of weeks ago and he received a clean copy of the consent decree from Mr. Beardsley today that he will bring to the City Clerk's office

Mr. Gahan expressed his concern about the citizens being involved in the issues with redistricting.

Mr. Kochert stated that they are having a public hearing to get the citizens involved.

APPOINTMENTS:

Mr. Blevins made a motion to appoint both individuals to the board

The motion died for lack of a second.

Mr. Coffey stated that he thinks that we should hold up on the second member because they need to give other individuals a chance to put in for this just like they did at the last meeting.

Mr. Schmidt stated that he thinks that they should vote on the engineer tonight because they wanted to last week but didn't because it wasn't on the agenda.

Mr. Price stated that the way it came to him was that they were only voting on the engineer tonight, because he also knows of a few other people that would like to be considered for this position.

Mr. Blevins stated that he didn't realize that there were other individuals that wanted to be considered and he just thought it would be a plus to have two engineers on the board.

Elizabeth Coyle – Engineer for Storm Water Board

Ms. Coyle stated that she wanted to be on the board because she understands the problems that the City faces with the storm water and the waste water as well as the

economics, engineering, and the politics. She stated that she has strong family ties in the community and she would like to give back to the community that she was raised in. She stated that she has 10 years in regulatory experience and knows about compliance rules. She explained that she could use her expertise and her background to help the City.

Mr. Kochert asked if Mrs. Coyle was looking to create a job for herself with this appointment or would she just be serving as a board member

Mrs. Coyle stated that she would be willing to serve the City in whatever capacity they needed her.

Mrs. Coyle was appointed to the board with a majority vote.

Nathan Grimes – Engineer for Storm Water Board

Mr. Grimes stated that he is the owner of Renaissance Engineering and has done work in and around New Albany for 30 years. He explained that his is very familiar with the issues that the City has and has done similar work for years and he believes he could be an asset to the City, the Council, the Mayor, and the citizen's of New Albany.

Mr. Kochert asked Mr. Grimes the same question regarding a conflict of interest.

Mr. Grimes stated that he would most likely not do work for the City in that capacity because of a conflict of interest.

Mr. Gahan pointed out that the Sewer Board was also looking for an engineer.

Mayor Garner stated that the only issue with that is that Mr. Grimes has bid on projects for the sewer and this would be a conflict of interest.

The board decided that they should wait to allow others to be considered for the third position.

Mr. Blevins stated that he didn't see why they wouldn't want to have two engineers.

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: READING

R-07-31	Resolution	Price
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Mr. Price moved to Table this resolution

Mr. Kochert asked Kay when this would need to be voted on.

Mrs. Garry stated that this would need to be voted on by the 20th of September because it was turned in with their budgets.

A-07-23	Ordinance for Appropriations and Tax Rates	Schmidt 1
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Mr. Schmidt moved for the first reading of A-07-23, Mr. Zurschmiede second, all voted in favor.

A-07-24	An Ordinance to Fix the Non-Reverting Budgets for Year 2008	Zurschmiede 1
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Mr. Zurschmiede moved for the first reading of A-07-24, Mr. Coffey second, all voted in favor.

A-07-25	An Ordinance Setting Salaries for The Year 2008 For the Non-Bargaining Unit Employees	Gahan 1
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Mr. Gahan moved for the first reading of A-07-25, Mrs. Crump second, all voted in favor.

Mr. Kochert stated that Mrs. Gary indicated that this was a 3% raise across the board.

Mr. Coffey had questions regarding the salary ordinance and who was paid which salaries. He then pointed out salaries that are listed that will not be needed next year that could be cut out to help.

Beverly Crump voiced concerns with some of the salaries of individuals that have been with the City for years and some of the new employees that are being hired at close to the same pay scale. She believed these employees that have been here for years like this should receive a 5% increase instead of just 3%. She also expressed concerns with the clerks and receptionists in the police department not making the same amount of money as the parking violations attendants that hasn't been there for as long as the clerks have.

Mrs. Garry explained that the traffic officer was brought up from the ASCME union and was promised the same salary that he was already making and that is why they are making more than the clerks.

Mr. Coffey stated that he is not necessarily saying to cut salaries but they have money that they are freeing up that they can move around.

A-07-26	An Ordinance Setting Salaries for the Year 2008 For Sworn Members of the New Albany Police and Fire Departments; and An Ordinance Setting Salaries For the Year 2008 for Members of the Communications (CWA); and an Ordinance For Setting Salaries for the Year 2008 for Members of the ASCME Union	Crump 1
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Mrs. Crump moved for the first reading of A-07-26, Mr. Messer second, all voted in favor.

A-07-27	An Ordinance Approving an Additional Appropriation Per R-07-18 for the Economic Development Income Tax (EDIT) Fund	Gahan 1
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Mr. Gahan moved for the first reading of A-07-27, Mr. Schmidt second, all voted in favor.

Z-07-16	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156 (Docket P-14-07: BBT Tires, Inc.)	Zurschmiede 1
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Mr. Zurschmiede moved for the first reading of Z-07-16, Mr. Coffey second, all voted in favor.

Mrs. Crump asked about the drainage issues in the area.

Mr. Jason Cooperwaite stated that there are conditions in the ordinance that deal with any drainage issues present and future in order to avoid any issues.

G-07-13	An Ordinance Enacting and Adopting a Merit System For the City of New Albany Fire Department	Messer 2&3
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Mr. Messer moved for the second and third reading of G-07-13 as amended, Mr. Coffey second, all voted in favor. Bill G-07-13 became Ordinance G-07-39

A-07-16	An Ordinance Approving an Additional Appropriation From the Drainage Non-Reverting Fund	Coffey 3
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Mr. Coffey moved for the second and third reading of A-07-16, Mr. Gahan second, all voted in favor. Bill A-07-16 became Ordinance A-07-40

Mr. Kochert reminded everyone that there would be a public hearing for the redistricting of the council districts on September 14 at 2:00 p.m.

Mr. Price asked what needed to be done to get individuals on the agenda for the other member of the Storm Water board.

Ms. Wisman stated that they just needed to send their resumes to her office and as she gets them she will put them on the agenda

Mr. Price asked what they needed to do to get money for the DROP payment other than the tax levy because he does not want to raise property taxes anymore.

Mrs. Garry stated that they would do a resolution from the rainy day fund but it is too late to advertise it and it would have to come from an additional appropriation.

MISCELLANEOUS COMMUNICATIONS: (public comments on non-agenda items)

ADJOURN:

There being no further business to be heard, the meeting adjourned at 9:29 p.m.

Larry Kochert, President
Common Council, City of New Albany

ATTEST: _____
Marcey J. Wisman, City Clerk